

HOUSE BILL NO. 146

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES SNYDER, Tarr, Fields, Spohnholz

Introduced: 3/24/21

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to disclosure of information regarding employee compensation by**
2 **employers, employees, and applicants for employment; establishing the fund for**
3 **protection of compensation disclosure rights; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 22.10.020(i) is amended to read:

6 (i) The superior court is the court of original jurisdiction over all causes of
7 action arising under the provisions of AS 18.80 **or AS 23.10.700 - 23.10.790**. A
8 person who is injured or aggrieved by an act, practice, or policy **that** [WHICH] is
9 prohibited under AS 18.80 **or AS 23.10.700 - 23.10.790** may apply to the superior
10 court for relief. The person aggrieved or injured may maintain an action on behalf of
11 that person or on behalf of a class consisting of all persons who are aggrieved or
12 injured by the act, practice, or policy giving rise to the action. In an action brought
13 under this subsection, the court may grant relief as to any act, practice, or policy of the
14 defendant **that** [WHICH] is prohibited by AS 18.80 **or AS 23.10.700 - 23.10.790**,

1 regardless of whether each act, practice, or policy, with respect to which relief is
 2 granted, directly affects the plaintiff, so long as a class or members of a class of which
 3 the plaintiff is a member are or may be aggrieved or injured by the act, practice, or
 4 policy. The court may enjoin any act, practice, or policy **that** [WHICH] is illegal
 5 under AS 18.80 **or AS 23.10.700 - 23.10.790** and may order any other relief, including
 6 the payment of money, that is appropriate.

7 * **Sec. 2.** AS 23.10 is amended by adding new sections to read:

8 **Article 9. Disclosure of Employee Compensation.**

9 **Sec. 23.10.700. Disclosure or discussion of wages.** (a) An employer who
 10 publishes a notice, advertisement, or other solicitation for employment shall include in
 11 the notice, advertisement, or other solicitation a description of the compensation,
 12 including the salary or range of salaries, for the position.

13 (b) An employer may not

14 (1) prohibit an employee or applicant for employment from disclosing
 15 the employee's or applicant's compensation or discussing or asking about the
 16 compensation of another;

17 (2) ask an applicant for employment about compensation the applicant
 18 may have received from another employer; or

19 (3) prohibit an employee or applicant from helping or encouraging
 20 another individual to exercise a right under this subsection.

21 (c) Nothing in this section

22 (1) creates an obligation for an employee or applicant for employment
 23 to disclose information about the employee or applicant's compensation or the
 24 compensation of another;

25 (2) prohibits an employee or applicant from voluntarily disclosing to
 26 an employer information about the employee or applicant's compensation;

27 (3) prohibits an employer from considering or relying on information
 28 disclosed under (2) of this subsection when determining the compensation of an
 29 employee or applicant for employment.

30 **Sec. 23.10.705. Posting summary required.** An employer subject to
 31 AS 23.10.700 - 23.10.790 shall keep a summary or abstract of the requirements in

AS 23.10.700 - 23.10.790 approved by the commissioner and post the summary or abstract in a conspicuous location at a place where an employee is employed. Upon request, the commissioner shall provide a copy of the summary or abstract to an employer without charge.

Sec. 23.10.710. Retaliation prohibited. An employer may not discharge, discipline, threaten, discriminate against, or penalize an employee for exercising a right under AS 23.10.700 - 23.10.790 or participating in or benefitting from a complaint, claim, trial, agreement, or investigation resulting from an alleged violation of AS 23.10.700 - 23.10.790.

Sec. 23.10.715. Damages for retaliation. An employee who has been discharged, disciplined, threatened, discriminated against, or penalized in violation of AS 23.10.710 may file a civil claim against the employer for damages, including reinstatement and lost wages, separate from and in addition to a fine recoverable by the state under AS 23.10.725.

Sec. 23.10.720. Statute of limitations. An action under AS 23.10.715 may be filed not later than three years after the injury to the aggrieved employee last occurs.

Sec. 23.10.725. Penalty. (a) A violation of AS 23.10.700 - 23.10.790 or a regulation or order of the commissioner issued under AS 23.10.700 - 23.10.790 is punishable by a fine of not less than \$100 or more than \$2,000 as determined by the commissioner.

(b) Each day a violation occurs may constitute a separate violation as determined by the commissioner.

(c) If an employer conducts an internal audit for the purpose of avoiding or correcting violations of AS 23.10.700 - 23.10.790, the commissioner may reduce the amount of a fine otherwise payable under this section.

Sec. 23.10.730. Fund for protection of compensation disclosure rights. (a) The fund for protection of compensation disclosure rights is created as a special account in the general fund. The fund consists of the amount determined and deposited into the fund under (b) of this section. The purpose of the fund is to provide a source from which the legislature may appropriate money to the department to offset the state's cost of enforcing AS 23.10.700 - 23.10.790.

1 (b) The legislature may appropriate to the fund fines collected by the
 2 department under AS 23.10.725 or money awarded to the department under a court
 3 order for attorney fees and costs under Rule 82, Alaska Rules of Civil Procedure.

4 (c) The legislature may make appropriations from the fund for the purpose
 5 described in (a) of this section.

6 (d) Nothing in this section creates a dedicated fund.

7 **Sec. 23.10.735. Regulations.** The commissioner shall adopt regulations under
 8 AS 44.62 (Administrative Procedure Act) to implement and interpret AS 23.10.700 -
 9 23.10.790.

10 **Sec. 23.10.790. Definitions.** In AS 23.10.700 - 23.10.790,

11 (1) "employee" means a person in the service of an employer;

12 (2) "employer" means the state, the University of Alaska, the Alaska
 13 Railroad Corporation, a political subdivision of the state, and a person who employs
 14 one or more other persons.

15 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
 16 read:

17 APPLICABILITY. AS 22.10.020(i), as amended by sec. 1 of this Act, and
 18 AS 23.10.700 - 23.10.790, enacted by sec. 2 of this Act, apply to compensation for services
 19 performed on or after the effective date of this Act.

20 * **Sec. 4.** This Act takes effect July 1, 2021.